

Legislative Analysis



ALPENA AND YORK TOWNSHIP CONVEYANCES

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Senate Bill 1124 (Substitute H-1)
Sponsor: Sen. Tony Stamas

Senate Committee: Appropriations
House Committee: Regulatory Reform

Complete to 9-9-04

A SUMMARY OF SENATE BILL 1124 (SUBSTITUTE H-1) AS REPORTED 9-9-04

The bill would permit the State Administrative Board to convey property located in the City of Alpena in Alpena County under the control of the Department of State Police, and property in York Township in Washtenaw County under the control of the Department of Community Health and known as the Ypsilanti Regional Psychiatric Hospital.

Alpena Property

The bill would authorize the State Administrative Board to convey for not less than fair market value all or portions of a parcel of property under the jurisdiction of the Department of State Police located in the City of Alpena.

Before offering the property for public sale, the Director of the Department of Management and Budget (DMB) would have to offer the property for sale for less than fair market value to the local units of government in which the property is located. A local government would have to enter into a purchase agreement within 60 days after the date of the offer and complete the purchase within 120 days after the date of the offer. Any conveyance to a local unit of government would have to require the property to be used exclusively for public purposes, and provide that upon termination of that use or use for another purpose, the state could reenter and repossess the property, terminating the grantee's estate in the property. If a local unit of government purchased the property, but then within one year conveyed it for other than a public purpose, the state would get one-half of the net profit realized from the conveyance.

If the property were offered for public sale, the sale would have to be conducted in a manner designed to realize the highest price from the sale to the state, and done in an open manner using a competitive sealed bid, real estate brokerage services, or a public auction. If the property were not conveyed to a local unit of government, and failed to sell at public sale, then the DMB Director, with the concurrence of the State Administrative Board, could order a reappraisal, withdraw the property from sale, or offer the property for sale for less than fair market value.

The conveyance would have to be by quitclaim deed prepared and approved by the attorney general. The state would reserve all rights in aboriginal antiquities, but would

not reserve the mineral rights to the property. The conveyance would have to provide, however, that if the purchaser or any grantee developed any minerals found on, within, or under the property, the purchaser or grantee would have to pay one-half of the gross revenue generated from developing the minerals to the state.

The revenue received under the bill would be credited to the General Fund. If the revenue were insufficient to reimburse the DMB for its costs, the Department of State Police would have to reimburse those costs within 30 days.

York Township Property

The bill would authorize the State Administrative Board to convey for a consideration the board considers a fair exchange of value for value, except for approximately 10.667 acres conveyed under Section 14 of Public Act 671 of 2002, all or a portion of approximately 724 acres of property under the control of the Department of Community Health in York Township in Washtenaw County known as the Ypsilanti Regional Psychiatric Hospital.

The bill specifies that in determining whether consideration for the property is a “fair exchange” the board could consider the highest return and best value to the state, based on (1) the fair market value of the property as determined by an independent appraiser or (2) the total value to the state of the sale and the best interests of the state, including any positive economic impact from the use of the property, particularly any economic impact resulting in the creation of high-technology or highly skilled jobs or increased capital investment for research and development.

The sale of the property would occur through one of four means: (1) a competitive sealed bid, (2) a public auction sale, (3) the use of real estate brokerage services, or (4) a negotiated sale process. Sale through a competitive sealed bid, public auction, or real estate brokerage firm would be conducted by the Department of Management and Budget in a manner that realizes the highest return and best value to the state. Sale through the negotiated sale process would be conducted by the Department of Management and Budget in a manner that provides the state with consideration for the property of at least fair exchange of value for value based on the fair market value of the property or the total value of the sale and the state’s best interest.

If the sale is conducted through the use of real estate brokerage services, the minimum selling price of the property would be an amount at least equal to its fair market value as determined through an independent appraisal. If the sale is conducted through a competitive sealed bid or public auction, public notice of the sale would have to be provided at least 10 days prior to the sale in a newspaper published in the county where the property is located.

The conveyance of the property would be by quitclaim deed and approved by the Department of Attorney General. The quitclaim deed could provide that the state preserves all rights to aboriginal antiquities.

The state would not reserve oil, gas, or mineral rights to the property. However, the quitclaim deed could provide that if the purchaser (or any subsequent owner) extracts any oil, gas, or minerals found on, within, or under the conveyed property, the state would be paid one-half of the gross revenue from the extraction, for deposit into the Natural Resources Trust Fund.

The net revenue - proceeds of the sale less costs for preparation, environmental remediation, and litigation - would be credited to the General Fund.

The bill would repeal Section 13 of Public Act 671 of 2002.

BACKGROUND INFORMATION:

Section 13 of Public Act 671 of 2002 (Senate Bill 616) first authorized the State Administrative Board to convey for not less than fair market value the Ypsilanti Regional Psychiatric Hospital, except for a portion of the property conveyed to York Township for public recreation purposes. Any sale of the property was to occur through a competitive sealed bid, oral bid, public auction, or through the use of real estate brokerage services. The conveyance authorized would have required the state to reserve oil, gas, and mineral rights.

In July 2004, following the provisions of Public Act 671, the Department of Management and Budget began accepting sealed bids for approximately 690 acres of the property. Bidding closed on August 16, 2004 with two bids submitted for the property: the Toyota Technical Center USA, Inc. bid \$9 million, and developer DPG York LLC bid \$25.25 million. In late August, the Department of Management and Budget announced its decision to reject both bids amid concern that the requirement that the state retain oil, gas, and mineral rights could negatively impact the property's potential development, and that neither bid adequately provided the DMB with a clear indication that it will realize the best value to the state. Immediately following the DMB's decision to reject the bids, Governor Granholm called on the legislature to pass legislation conveying the property to Toyota.

Reportedly, on September 7, 2004, DPG York filed suit in Oakland County Circuit Court challenging the DMB's decision to reject the bids, on the grounds that it hadn't challenged the requirement that the state retain mineral rights, and that its bid was the only qualifying bid.

FISCAL IMPACT:

The conveyances would have an indeterminate fiscal impact on state government. The Alpena property is an old and vacant former State Police post (consisting of one-half acre of land) that has been replaced with a newer facility. By selling the property, the department would avoid annual maintenance and upkeep costs associated with maintaining the building. A current appraisal for the property does not exist.

POSITIONS:

Among those indicating support for the bill before the House Committee on Regulatory Reform were the Ann Arbor Area Chamber of Commerce; the Washtenaw Development Council; and York Township. (9-9-04)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.